

The Honorable Tana Lin
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT A. BENSHOOF, and BRIANA D. GAGE,)	
)	
Plaintiffs,)	No. 2:24-cv-00343-TL
v.)	
)	
CITY OF SHORELINE, KING COUNTY,)	DEFENDANTS' JOINT STATUS
TOWN & COUNTRY MARKETS, EVAN B.)	REPORT AND DISCOVERY PLAN
FAGAN, WILLIAM C. AKERS and MR.)	
THOMPSON,)	
)	
Defendants.)	
)	

Pursuant to Federal Rule of Civil Procedure 26(f), LCR 26(f) and this Court's Order Regarding FRCP 26(f) Conference, Initial Disclosures, and Joint Status Report (Dkt. 17), Defendants, by and through their respective counsel of record, hereby submit that an FRCP 26(f) conference took place on June 24, 2024, with Plaintiff Benshoof. Plaintiff Gage did not participate in the FRCP 26(f) conference. Defendants have had no communication with or from Plaintiff Gage. Subsequently, Plaintiff Benshoof was arrested and is currently housed in the King County Jail awaiting trial on numerous criminal charges. Defendants hereby submit the following Joint Status Report and Discovery Plan.

1 **1. Statement of the Nature and Complexity of the Case**

2 This is an action for declaratory relief and compensatory and punitive damages in which
 3 Plaintiffs assert violation of their constitutional rights by the enforcement of Town & Country
 4 Markets, Inc.'s mask policy during the COVID-19 pandemic. Defendants assert that Plaintiffs
 5 lack standing for many of their claims, that this Court lacks jurisdiction for many of the claims,
 6 that the statute of limitations bars some of the claims, and that Plaintiffs have otherwise failed to
 7 plausibly allege cognizable claims. Defendants do not believe that this case is particularly complex
 8 and believe that it will be resolved by dispositive motions.

9 **2. Consent to Assignment to a United States Magistrate**

10 No.

11 **3. Proposed Deadline for Joining Additional Parties**

12 Defendants propose July 12, 2024, as the deadline for seeking to join additional parties, if
 13 any.

14 **4. FRCP 26(f)(3) Discovery Plan**

15 **(A) Initial Disclosures.** Defendants provided FRCP 26(a) initial disclosures to Plaintiffs
 16 on July 12, 2024. Plaintiffs have not provided initial disclosures to Defendants.

17 **(B) Subjects, Timing, and Potential Phasing of Discovery.** Defendants believe that the
 18 appropriate scope of discovery in this matter involves information regarding Plaintiffs'
 19 interactions with Defendants from September 2020 through May 2023 and can be
 20 obtained by methods including, but not limited to, interrogatories, requests for
 21 production, requests for admission, subpoenas and depositions. Defendants believe
 22 that discovery can be completed at least 120 days prior to the proposed trial date.
 23 Phased discovery is unnecessary at this time.

1 **(C) *Electronically Stored Information (“ESI”)*.** Defendants do not foresee issues with
 2 ESI and agree to produce ESI in native or searchable formats based on agreement of
 3 the parties.

4 **(D) *Privilege Issues*.** Defendants agree that any documents redacted or withheld in their
 5 entirety due to claims of privilege that are otherwise responsive to discovery will be
 6 documented through a privilege log.

7 **(E) *Proposed Limitations on Discovery*.** Defendants do not propose any limits on
 8 discovery at this time, but Defendants anticipate that Plaintiffs may make discovery
 9 requests that lack relevance or are unduly burdensome and that disputes may arise
 10 between the parties over discovery that might need to be resolved by this Court.

11 **(F) *The Need for Any Discovery-Related Orders*.** Defendants do not anticipate that
 12 discovery in this matter will encompass the production of confidential information.

13 **5. LCR 26(f)(1) Topics**

14 **(A) *Prompt Case Resolution*.** Defendants believe the complaint should be dismissed
 15 pursuant to FRCP 12. Any dispute resolution would not occur until dispositive motions
 16 have been decided.

17 **(B) *Alternative Dispute Resolution*.** Defendants do not believe that mediation under LCR
 18 39.1(c) is appropriate.

19 **(C) *Related Cases*.** There are currently no related cases. Plaintiff Benshoof has had other
 20 similar cases dismissed in the Western District of Washington: *Benshoof v. Fauci, et*
 21 *al.*, 2:22-cv-1281; *Benshoof et al. v. Admon et al.*, 2:23-cv-01392; *Benshoof v. Keenan*,
 22 2:23-cv-00751. Other similar cases remain pending: *Benshoof v. Keenan*, 2:24-cv-
 23 00382; *Benshoof et al. v. Ferguson et al.*, 2:24-cv-00808.

1 **(D) *Discovery Management.*** Defendants may seek Court intervention if Plaintiffs make
2 unduly burdensome discovery requests.

3 **(E) *Anticipated Discovery Sought.*** Defendants anticipate that reasonable discovery will
4 involve documentation regarding Plaintiffs' contacts with Defendants.

5 **(F) *Phasing Motions.*** Defendants Town & Country Markets, Inc. and Evan B. Fagan have
6 filed a motion to dismiss pursuant to FRCP 12(b)(1) and (6). Defendants Shoreline,
7 King County, Deputy Akers and Detective Thompson anticipate also filing dispositive
8 motions pursuant to FRCP 12 and/or 56.

9 **(G) *Preservation of Discoverable Information.*** Defendants have undertaken efforts to
10 preserve potentially discoverable information in their respective possession and
11 control.

12 **(H) *Privilege Issues.*** Defendants agree that any documents redacted or withheld in their
13 entirety due to claims of privilege that are otherwise responsive to discovery will be
14 documented through a privilege log.

15 **(I) *Model Protocol for Discovery of ESI.*** Defendants are willing to agree to the provisions
16 of the Western District of Washington's Model Agreement re: Discovery of ESI in
17 order to address issues related to discovery of ESI.

18 **(J) *Alternatives to Model Protocol.*** See above.

19 **6. Discovery Completion Date**

20 Defendants propose a discovery completion deadline of May 15, 2025. Defendants do not
21 anticipate a need for expert witnesses.

22 **7. Case Bifurcation**

23 Defendants believe that no bifurcation is necessary.

1 **8. Pretrial Statements and Pretrial Order**

2 Defendants believe that pretrial statements and pretrial orders should not be dispensed with
3 in this case.

4 **9. Individualized Trial Program**

5 Defendants do not intend to utilize the Individualized Trial Program set forth in LCR 39.2.

6 **10. Alternative Dispute Resolution.**

7 Defendants do not intend to utilize any Alternative Dispute Resolution options set forth in
8 LCR 39.1.

9 **11. Trial Readiness Date**

10 Defendants believe that the case will be ready for trial by September 15, 2025. This date
11 was agreed to by Plaintiff Benshoof orally in the FRCP 26(f) conference.

12 **12. Jury or Non-Jury Trial**

13 Plaintiffs have requested a jury trial.

14 **13. Number of Trial Days**

15 Defendants anticipate 3 to 4 trial days would be required.

16 **14. Names and Addresses and Telephone Numbers of Defense Trial Counsel**

17 **City of Shoreline, King County, Akers and Thompson**

18 Ms. Ann Summers, WSBA #21509 (she/her)
19 701 5th Avenue, Suite 600
 Seattle, WA 98104
20 (206) 477-1909

21 **Town & County and Fagan**

22 Mr. Adam R. Asher, WSBA #35517
 Ms. Courtney J. Olson, WSBA #54548
23 Socius Law Group. PLLC
 One Union Square
 600 University Street, Suite 2510

Seattle, WA 98101
(206) 838-9100

15. Dates on Which Defense Counsel Have Conflicts

Counsel for City of Shoreline, King County, Akers and Thompson:

October 1 – 13, 2024; December 18 – 31, 2024; March 3-7, 2025.

Counsel for Town & Country and Fagan:

None at this time.

16. Service of Defendants.

All Defendants have been served.

17. Scheduling Conference.

No scheduling conference is requested.

18. Corporate Disclosure Statement.

Defendant Town & Country Markets, Inc. filed its corporate disclosure statement on June 12, 2024.

19. Standing Order.

All defense counsel have reviewed this Court's Standing Order.

DATED this 25th day of July, 2024.

LEESA MANION (she/her)
King County Prosecuting Attorney

SOCIUS LAW GROUP. PLLC

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on July 25, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF E-filing system which will send automatic notification to the following:


Kurt A. Benshoof
Briana D. Gage
1716 N 128th Street
Shoreline, WA 98133
kurtbenshoof@gmail.com
brianagage702@gmail.com
Pro Se Plaintiffs

I also hereby certify that on July 25, 2024, I sent the same via US Postal Service to the following:

Kurt A. Benshoof
B/A 2024-008067
UCN 10518097
King County Correctional Facility
500 Fifth Avenue
Seattle, WA 98104

I declare under penalty of perjury under the laws of the United States of America and the State of Washington that the foregoing is true and correct.

DATED this 29th day of May, 2024.


RAFAEL A. MUNOZ-CINTRON
Paralegal I – Litigation Section
King County Prosecuting Attorney's Office